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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 02/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliance  
With 37 CFR 1.192(c)**

Application No.

09/661,653

Applicant(s)

AULT, EARL R

Examiner

Davienne Monbleau

Art Unit

2878


--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 04 November 2003 is defective for failure to comply with one or more provisions of 37 CFR 1.192(c). See MPEP § 1206.

To avoid dismissal of the appeal, applicant must file IN TRIPLICATE a complete new brief in compliance with 37 CFR 1.192(c) within the longest of any of the following three **TIME PERIODS**: (1) **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer; (2) **TWO MONTHS** from the date of the notice of appeal; or (3) within the period for reply to the action from which this appeal was taken. **EXTENSIONS OF THESE TIME PERIODS MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 1.192(c), or the items are not under the proper heading or in the proper order.
2. ☒ The brief does not contain a statement of the status of all claims, pending or cancelled, or does not identify the appealed claims (37 CFR 1.192(c)(3)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 1.192(c)(4)).
4. ☒ The brief does not contain a concise explanation of the claimed invention, referring to the specification by page and line number and to the drawing, if any, by reference characters (37 CFR 1.192(c)(5)).
5. ☒ The brief does not contain a concise statement of the issues presented for review (37 CFR 1.192(c)(6)).
6. ☒ A single ground of rejection has been applied to two or more claims in this application, and
  - (a) ☐ the brief omits the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet presents arguments in support thereof in the argument section of the brief.
  - (b) ☒ the brief includes the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet does not present arguments in support thereof in the argument section of the brief.
7. ☐ The brief does not present an argument under a separate heading for each issue on appeal (37 CFR 1.192(c)(8)).
8. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 1.192(c)(9)).
9. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet

  
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Continuation of 9. Other (including any explanation in support of the above items): Regarding Item 2: the brief does not state that Claims 1, 3-5 and 9 stand rejected.

Regarding item 4: the explanation of the claimed invention is not concise. Items that are not part of the claimed invention are incorrectly included (i.e. operating wavelength, application of apparatus, optical wedge, and windows). Also, there is much repetition in describing the claimed features, which is not necessary. Lastly, the MPEP recommends that where applicable, as it is in this case, it is preferable to read the appealed claims on the specification and any drawing, rather than narrative form straight out of the specification.

Regarding Item 5: the issue at hand refers to each separate rejection that was made in the final rejection and not the arguments against the rejections. Thus, in this case, since all of the claims were rejected under the same premise, there is only one issue ... "Whether Claims 1, 3-5, and 9 are unpatentable under 35 U.S.C. 103 (a) ... ". The subsequent listing of arguments under "Issue" headings is incorrect.

Regarding item 6: Since all of the claims (1, 3-5 and 9) were rejected under a single ground of rejection and they are not patentably distinct, there is only one group.

Argument Issues A and B set forth in the brief are essentially the same argument and is repetitive.